

Internal Revenue Service

Department of the Treasury

District
Director

31 Hopkins Plaza, Baltimore, MD 21201

Person to Contact:

Telephone Number:

Refer Reply to:

Date:

MAR 13 1992

CERTIFIED MAIL

Dear Sir or Madam:

We have considered your application for recognition of exemption for Federal income tax under section 501(c)(3) of the Internal Revenue Code.

The information submitted indicates you were incorporated under the nonprofit corporation laws of the State [REDACTED] on [REDACTED].

Your purposes, as stated in your Articles of Incorporation, include the promotion and protection of the common interests of the residents and property owners of that neighborhood in [REDACTED] known as [REDACTED]; and to exercise any or all lawful powers to effect the purposes for which you were organized.

Your activities include representing approximately [REDACTED] families living in the area of [REDACTED] in dealing with matters affecting the common interests of residents and property owners; authorizing representatives to appear before zoning and administrative boards to contest or approve land use proposals; and providing for maintenance and security service for the homeowners.

Income is derived from contributions, membership fees, and gross investment income. Expenditures are for professional, office, maintenance, and contributions.

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of organizations organized and operated exclusively for charitable, scientific, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(c)(1) of the income tax regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Internal Revenue Code 501(c)(3) limits exemption to organizations, "no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation."

The regulations state that an organization is not operated exclusively for exempt purposes if it is an "action" organization to describe both organizations that attempt to influence legislation and organizations that intervene in political campaigns.

Regulations 1.501(c)(3)-1(c)(3)(iv) states that an organization is an action organization if its main or primary objective (as distinguished from its incidental or secondary objective) may be attained only by legislation or a defeat of proposed legislation; and it advocates, or campaigns for, the attainment of such main objective as distinguished from analysis, study or research and making the results thereof available to the public.

In Rev. Rul. 67-6, 1967-1 C.B. 135, an association whose activities are primarily devoted to preserving the traditions, architecture, and appearance of a community by means of individual and group action before the local legislature and administrative agencies with respect to zoning, traffic, and parking regulations may be exempt from Federal income tax under section 501(c)(4) of the Code. It is not exempt under Code section 501(c)(3) due to a substantial part of its activities involving attempts to influence local legislative representatives with respect to its programs.

In Rev. Rul. 68-15, 1968-1 C.B. 244, an organization that investigated causes of community tension, discrimination, physical deterioration and juvenile delinquency, and disseminated its findings to the public as to correcting such conditions qualified for exemption under section 501(c)(3) of the Code. No part of the organization's activities consisted of carrying on propaganda or otherwise attempting to influence legislation.

Revenue Ruling 76-147, 1976-1 C.B. 151, modifies Revenue Ruling 67-6. Revenue Ruling 67-6 is modified to remove any implication that preserving or improving a community does not benefit a sufficiently broad segment of the public to be charitable. So long as the community interests served by such activities are truly public in scope and not merely the private interests of a class of persons not comprising a charitable class, then such activities may be deemed to confer a public community benefit that the law regards as charitable. However, the conclusion that the organization described in Revenue Ruling 67-6 is an "action" organization within the meaning of Regulations section 1.501(c)(3)-1(d)(3)(ii) remains in effect.

For purposes of IRC 501(c)(3), there is no distinction between "good" legislation and "bad" legislation. Revenue Ruling 67-293, 1967-2 C.B. 185, holds that an organization that substantially engaged in promoting legislation to protect or otherwise benefit animals was not exempt under IRC 501(c)(3) even though the legislation it advocated was beneficial to the community.

Under Better Business Bureau vs. U.S., 326 U.S. 270 (1945), it was held that a single noncharitable or noneducational purpose, if substantial in nature, will preclude exemption under Code section 501(c)(3) regardless of the number of truly charitable or educational purposes.

Your purposes specified within your Articles of Incorporation include promoting and protecting the common interests of the residents and property owners in the [REDACTED] area within [REDACTED]. Such purposes are not within the meaning of Code section 501(c)(3), and you therefore are not organized exclusively for any of the purposes specified in that section.

Your activities include authorizing representatives to appear before zoning and administrative boards to contest or approve land use proposals affecting residents in the [REDACTED] area. This activity serves to advance your main or primary objective of promoting and protecting the common interests of the residents of [REDACTED]; and it can be attained only through legislation or a defeat of proposed legislation. Under these facts and circumstances, we have determined you to be an "action" organization described within section 1.501(c)(3)-1(c)(3)(iv) of the Regulations.

Our review of the information submitted indicates that you do not meet the organizational test requirements of section 1.501(c)(3)-1 of the income tax regulations because you are not organized "exclusively" for charitable purposes. Moreover, because you are an "action" organization, you are not operating exclusively for the purposes specified within Code section 501(c)(3). You therefore do not qualify for exemption under Code section 501(c)(3) due to your failure to meet both the organizational and operational tests required under that section. Contributions to your organization are not deductible under Code section 170.

A copy of this letter will be sent to the appropriate state officials in accordance with section 6104(c) of the Internal Revenue Code.

If you do not accept our findings, we recommend that you request a conference with a member of our Regional Office of Appeals. Your request for a conference should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a conference. The conference may be held at the Regional Office, or if you request, at any mutually convenient District Office. If we do not hear from you within 30 days from the date of this letter, this determination will become final.

[REDACTED]

If you do not protest this proposed determination in a timely manner, it will be considered as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely yours,

[REDACTED]
District Director

Enclosure: Publication 892

cc: State Attorney General [REDACTED]